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**Presentation to the Virginia Paid Family and Medical Leave Working Group
Submitted by Molly Weston Williamson, Senior Staff Attorney, A Better Balance
September 17, 2019**

A Better Balance is a legal advocacy organization whose mission is to fight for policies that will protect American workers from having to choose between caring for themselves and their families and maintaining their economic security. To that end, we have been working on paid family and medical leave issues in states throughout the country for over a decade. We are delighted that Virginia is considering legislation regarding this important issue and are proud to support House Bill 2120 and Senate Bill 1639.

I. Paid family and medical leave laws are working in other states.

Since the middle of the last century, five states (California, New Jersey, Rhode Island, New York, and Hawaii) have provided a legal right to temporary disability insurance (TDI), which provides partial wage replacement to those unable to work due to an off-the-job illness or injury. In recent years, California, New Jersey, Rhode Island, and New York have expanded these programs to provide benefits to workers bonding with a new child or caring for a seriously ill loved one.¹ In addition, Washington, D.C., Washington State, Massachusetts, Connecticut, and Oregon have passed laws to create new insurance systems to provide benefits in these same situations, which those states are currently working to implement. Though their exact structures vary, all existing comprehensive paid family and medical leave programs provide benefits through a social insurance model.

In each state with a paid family and medical leave law, almost all private sector (non-government) employees have an automatic legal right to coverage, including hourly, part-time, and subcontracted workers.² These laws cover employees regardless of the size of their employer, meaning that even those who work for an employer with just one employee have the right to coverage. Most programs also allow self-employed workers to opt in to coverage if they choose.

These laws provide benefits in a few types of situations. Workers can receive medical leave benefits (sometimes called TDI benefits) when they are unable to work due to a serious off-the-job illness or injury. In all programs, family leave benefits are available to those taking leave from work to bond with a new child (including children newly placed for foster care or adoption) or to care for a family member with a serious health condition. New York, Washington State, Massachusetts, California, and Connecticut also provide (or will provide) paid family leave benefits to workers dealing with certain needs in connection with a family member's military deployment. New Jersey and Oregon also

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provide (or will provide) benefits known as “safe time,” which covers non-medical needs arising from domestic or sexual violence.

Programs vary in the number of weeks of benefits workers can receive. For their own medical needs, workers can receive benefits for fifty-two weeks in California, thirty weeks in Rhode Island, and twenty-six weeks in New York and New Jersey. Workers will be able to receive benefits for their own medical needs for twenty weeks in Massachusetts, twelve weeks in Washington State, Connecticut, and Oregon (with an additional two weeks for certain pregnancy-related health needs in each of these states), and two weeks in Washington, D.C. For paid family leave, California currently offers six weeks and will begin offering eight weeks in 2020, while Rhode Island offers four weeks of benefits. New York currently offers ten weeks of paid family leave benefits and, when the program is fully phased in in 2021, will offer twelve weeks; New Jersey currently offers six weeks but will begin offering twelve weeks in 2020. Washington State, Massachusetts, Connecticut, and Oregon will each offer twelve weeks of paid family leave benefits,³ while Washington, D.C. will provide six weeks of benefits to care for a seriously ill or injured loved one and eight weeks of benefits to bond with a new child. Programs vary in the extent to which workers can combine family and medical leave benefits sequentially.

Benefits are calculated as a percentage of workers’ income. In some programs, this is a flat percentage of workers’ own income. Workers receive a flat percentage of their average weekly wage in Rhode Island (approximately 60%) and New Jersey (approximately 67%, which will go up to 85% in 2020). New York also uses a flat wage replacement rate, currently 50% for medical leave and 55% for family leave, but will increase the rate over time for family leave until it reaches 67% in 2021.

Other programs use what is called progressive wage replacement rates, where lower income workers receive a higher percentage of their income. California uses a progressive wage replacement rate ranging from 60% to 70% for most workers, with lower-income workers receiving a higher percentage of their income. Washington, D.C., Washington State, Massachusetts, Connecticut, and Oregon will use progressive rates structured in a similar way. In these states, workers will receive a higher percentage of their income up to a threshold (ranging from 80% to 100%) and then a lower percentage of income (ranging from 50% to 65%) above that threshold. In effect, this will create a sliding scale of benefits. The exact thresholds vary from state to state, but are typically tied to a percentage of the state’s average weekly wage or to the state’s minimum wage.⁴

In every program, benefits are subject to a cap (a maximum weekly benefit). In many states, this cap is set as a percentage of the state’s average weekly wage, so that it adjusts each year in response to growth in wages. Other programs use other mechanisms to

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ensure the benefit keeps pace with growth; for example, D.C.'s program, like the proposed Virginia program, will adjust benefits each year in response to regional inflation.

Paid family and medical leave laws are social insurance systems. Though the mechanics vary by state, in all states the programs work by combining small contributions from employers, employees, or both into an insurance system. When workers need family or medical leave, the insurance system pays their benefits. This means that employers do not have to pay workers' wages out of pocket when they are out on leave, making providing paid leave inexpensive to the employer. This feature may be especially important for small employers, who often cannot afford to pay for paid leave out of pocket and therefore are at a competitive disadvantage in hiring the best employees as compared to larger employers who can afford to do so.

II. The need for Virginia to pass a paid family and medical leave law is overwhelming.

Shockingly, the United States remains one of only two countries in the world, along with Papua New Guinea, with no national paid parental leave benefit of any kind.⁵ Only 16% of private sector workers receive paid family leave through their employers to bond with a new child or care for a seriously ill or injured family member; among low-income workers, the number is even lower.⁶

This lack of access has predictable and devastating consequences for American families. Women without paid leave are more likely to be pushed into lower-paying jobs or to drop out of the work force entirely.⁷ In contrast, women who take paid leave after a child's birth are more likely to be employed nine to twelve months after the child's birth than working women who take no leave and new mothers who take paid leave are also more likely to report wage increases in the year following the child's birth.⁸ For working fathers, taking longer paid family leave means increased satisfaction in their contact with their children⁹ and greater engagement in their children's lives.¹⁰

Lack of paid leave also hurts children. When parents cannot take the leave they need, babies are less likely to get checkups and important vaccinations, less likely to breastfeed, and more likely to develop behavioral problems.¹¹ For foster children, the first few months are a critical adjustment period in the transition to a new placement,¹² during which children need time to bond with their foster parents. Seriously ill children benefit when their parents can afford time off to care for them. Research shows that ill children have better vital signs, faster recoveries, and reduced hospital stays when cared for by parents.¹³

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Nor is the need for family leave limited to new parents: today, nearly one in three U.S. households provide care for an adult loved one with a serious illness or disability.¹⁴ With an aging population, these numbers will only increase in the future. Family caregivers can help these individuals recover more quickly and spend less time in hospitals.¹⁵ Policies that support family caregiving create savings that benefit all Virginia taxpayers. Unpaid family caregivers not only help to ease the burden on our crowded hospitals and long-term care facilities but also create enormous financial savings. For example, recipients of family caregiving are less likely to have nursing home care or home health care paid for by Medicare.¹⁶ Because most caregivers providing care for adults are employed,¹⁷ the demands of providing care are in constant tension with earning a much-needed income.

Workers also need time off to address their own serious health needs. Nationwide, about three in five private sector workers lack access to short-term disability insurance through their employers, leaving them vulnerable when they need time off from work to address their serious health needs.¹⁸ Among low-income workers, these numbers are even more stark. Over 80% of those in the bottom quarter of earners and nearly 90% of those in the bottom tenth of earners lack access to short-term disability insurance through their employers.¹⁹ When workers do not have the leave they need, they may defer or forego necessary medical treatment.²⁰

Medical problems are a leading cause of personal bankruptcy in this country²¹ and a frequent contributor to home foreclosures.²² Without paid leave, those dealing with a disabling illness are often pushed onto public benefits.²³ Nearly one in three seriously ill workers either lose their jobs or have to change jobs as a result of their illness.²⁴ Paid medical leave can help workers balance their health needs with work and keep their jobs. Paid leave allows workers to recover and return to full productivity more quickly than they would by continuing to work.

Finally, military families lack the protections they need when their loved ones are called to active duty service of our country. In one recent national survey, the amount of time service members spend away from family was ranked as the top issue of concern for service members and military spouses.²⁵ Families that make these sacrifices deserve the paid time off they need to address the effects of deployment on their families and their lives. Moreover, due to the impacts of the military lifestyle, a shocking 30% of military spouses are unemployed, despite actively seeking employment, and many more are underemployed.²⁶ Fifty-two percent of military spouses reported that unemployment and underemployment are the main obstacles to financial security.²⁷ Ensuring that these patriots can take the time away they need and then return ready to work can help them maintain employment and better support their loved ones serving abroad and those who remain at home.

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The Business Case for Paid Leave

Four states, California, New Jersey, Rhode Island, and New York, have already implemented paid family and medical leave programs, with programs in the works under laws passed in Washington, D.C., Washington State, Massachusetts, Connecticut, and Oregon.²⁸ The experiences of these states have shown that paid family and medical leave laws can provide critically needed benefits at an affordable cost and without burdening businesses.

Contrary to opponents' claims, paid leave does not hurt businesses and can even help. In California, 92.8% of employers reported that paid family leave had a positive or neutral effect on employee turnover,²⁹ saving employers the costly step of replacing an existing employee.³⁰ A majority of California employers also reported positive or neutral effects on productivity (88.5%), profitability/performance (91.0%), and employee morale (98.6%).³¹

Nor is it true that paid family and medical leave is bad for small businesses. Without a state program, small businesses that cannot afford to offer the same generous leave benefits as larger companies are at a competitive disadvantage in hiring.³² Providing paid leave through a social insurance program levels the playing field for small businesses. That is why, for example, one year after Rhode Island's paid family leave law went into effect, a majority of small employers reported they were in favor of the program.³³

The Health Case for Paid Leave

A robust and growing body of research demonstrates the substantial health benefits of paid family and medical leave for working families. For example, paid leave is associated with better physical and mental health for mothers, including a lower risk of postpartum depression.³⁴ Moms who return to work within twelve weeks of giving birth are less likely to breastfeed and, when they do, breastfeed for less time than those who stay home longer.³⁵ In this context, it is unsurprising that access to paid leave has substantial positive effects on breastfeeding. For example, one leading study of California's paid family leave program found that use of paid family leave more than doubled the average number of weeks of breastfeeding and, among workers with low-quality jobs, notably increased the percentage of women who initiated breastfeeding at all.³⁶

Paid leave is also tied to reduction in infant and child mortality. In one study of 141 countries, controlling for other factors, an increase of ten full-time-equivalent weeks of paid maternal leave reduced neonatal and infant mortality rates by 10% and the mortality

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rate of children younger than five by 9%.³⁷ Expanding paid leave may also help redress existing maternal health disparities. For example, one study found that the positive effects of increasing the length of paid maternity leave are especially pronounced for low-resource families.³⁸ Moreover, there are significant racial disparities in maternal health, especially for Black women who are significantly more likely to die in childbirth or experience serious complications than white women.³⁹ Greater access to paid leave can help bridge these gaps.

Family care leave also provides significant health benefits to both caregivers and care recipients. Ill children have better vital signs, faster recoveries, and reduced hospital stays when cared for by parents.⁴⁰ Paid leave is a crucial part of this equation, because parents with paid leave are more than five times more likely to care for their sick children than those without.⁴¹ In one study, parents of children with special needs who received paid leave were more likely to report positive effects on their children's physical and mental health than those who took leave without pay.⁴² Paid family care leave also has important health benefits for caregivers, who face many negative health repercussions from caregiving. Research shows that access to paid leave improves caregivers' mental and emotional health.⁴³

Paid medical leave provides workers extended time off to deal with their own serious health need, including acute conditions like cancer, chronic conditions like diabetes or asthma, or recovery from an accident or serious injury. Paid leave allows workers to get the treatment they need, when they need it. For example, paid medical leave helps cancer patients and survivors determine a course of treatment, follow through with that treatment, afford treatment, and manage side effects.⁴⁴ Paid leave also helps keep workers safe on the job, increasing productivity and decreasing employer costs. Workers with paid leave are significantly less likely to suffer dangerous injuries on the job⁴⁵ or deaths on the job (for example, from heart conditions).⁴⁶ When workers must return to work before a chronic condition is stabilized or before they have healed from an injury, they are more likely to relapse or re-injure themselves while working.⁴⁷ Nationally, one in three U.S. adults under 65 has at least one chronic health condition.⁴⁸ For workers who receive health insurance through their employers, taking needed leave can mean risking their coverage when they need it the most. Strong paid leave laws, like the bills before you today, protect workers' right to keep their employer-provided health insurance, ensuring that workers do not lose the coverage they need at these critical junctures.

Paid Family and Medical Leave Programs Work Well and Are Not Abused

While critics charge that employees will abuse the program, the evidence does not support that claim. In 2016, California's Employment Development Department (EDD) which administers the paid family and medical leave program, found only 945 cases of

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family caregiving fraud out of 962,565 paid claims—a rate of 0.09% or less than one tenth of one percent of all claims.⁴⁹ In 2017, the EDD found even fewer cases of fraud, just 563 claims out of just under 950,000 paid claims, a rate of 0.06%.⁵⁰ Similarly, a study regarding employer experiences with paid family leave in New Jersey found no reports of abuse, with one human resources director noting “I don’t know how anyone can abuse [the program],” given the documentation forms and required verification of medical conditions.⁵¹

All of the states with paid family and medical leave laws currently in effect require workers to submit documentation in order to take leave, and there may be additional safeguards to verify the details of the need for leave. For example, workers seeking leave for their own or a family member’s health needs must provide detailed documentation from a health care provider.

III. These bills contain the most important aspects of a good paid family and medical leave program.

The bills under consideration in Virginia contain key policy elements for a strong paid family and medical leave program. Crafted along the same lines as the successful programs in the states that have enacted paid family and medical leave, these bills propose an insurance program financed by small employee contributions that will enable workers to take time off when they and their families need it the most. These are the key policy points in the current bills that should not be changed.

12 weeks is a minimum length of leave time to serve the purposes of this legislation.

We are glad to see that the current proposed bills would provide at least 12 weeks of paid family and medical leave. This minimum benchmark, which is also consistent with the FMLA, ensures that workers have the time they need to attend to their own or a family member’s serious health needs, address the impact of a family member’s military deployment, or bond with a new child. Providing 12 weeks of coverage would also match the length of paid family leave coverage in New York (once the program is fully phased in) and Massachusetts and of paid family and medical leave in Washington State, Connecticut, and Oregon.

The health benefits of providing 12 weeks of leave for bonding are overwhelming for children, mothers, and fathers. Children whose mothers do not return to work full time in the first 12 weeks are more likely to receive medical checkups and critical vaccinations.⁵² Mothers who take at least 12 weeks of leave are also more likely to breastfeed, with important lasting health benefits for their children.⁵³ Fathers who take longer leaves

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experience greater engagement in their children's lives;⁵⁴ greater paternal engagement has cognitive and developmental advantages for children.⁵⁵ For foster children, the first few months are a critical adjustment period in the transition to a new placement,⁵⁶ during which children need time to bond with their foster parents. Experts including the American Academy of Pediatrics recommend that healthy full-term infants should not be enrolled in child care until they are at least 12 weeks old due to rapid developmental changes and the risk of developing severe undetected illness.⁵⁷

For new birth mothers, having less than 12 weeks of family leave is associated with increased symptoms of postpartum depression.⁵⁸ For working fathers, taking longer paid family leave means increased satisfaction in their contact with their children.⁵⁹

Job protection is critical to the ability of a worker to take this benefit for which the worker is paying.

We are especially glad to see that the bills will protect the jobs of workers taking paid family and medical leave under the law. The proposal would provide job protection for all employees covered by program. Job protection is an essential element—without it, it's not leave. This is especially important for low-income workers, who change jobs more often than other workers⁶⁰ and are more likely to be working part time⁶¹ (including many part-time workers who would prefer to be working full time).⁶² Peer states Massachusetts, Connecticut, and Oregon will provide job protection to employees taking paid family or medical leave, while New York and Rhode Island already provide job protection to all employees covered by their paid family leave laws.

The need for paid family and medical leave occurs at some of the most stressful times in a person's life: the arrival of a new child, a health crisis in the family, or a looming deployment. At these times, workers shouldn't have to worry whether they will have a job to return to after their leave. Without job protection, workers will pay for a program they can't use. Without a legal right to get their job back, many workers will be unable to take the leave they need—the risk to their long-term economic security will be too great. In one California study, fear of being fired was a commonly cited reason workers who were eligible for paid family leave under that state's program did not take it.⁶³ In Rhode Island, 45% of workers who took leave under their state's paid family leave law (which provides job protection) said that without the law they would not have taken leave for fear of losing their job.⁶⁴

Job protection keeps workers attached to the workforce. When workers are unable to take short-term leave and then return to their job, they are often pushed out of the workforce altogether. One study estimated that men who leave the labor force early due to caring for an aging parent lose almost \$90,000 in wages, while women who do so lose over

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\$140,000 in wages.⁶⁵ Women who take paid leave after having a baby are more likely to be working 9 to 12 months after the birth than women who take no leave.⁶⁶ And keeping workers on the job saves taxpayers money. Both men and women who return to work after taking paid leave are much less likely to be receiving public assistance or food stamps in the year following their child's birth than those who return to work without taking family leave.⁶⁷

Workers need a decent wage replacement in order to be able to take time off, especially workers at the bottom of the economic spectrum.

The proposed bills would provide 70% wage replacement (provide workers with 70% of their regular weekly income). Initially, benefits would be up to a maximum of \$850 per week, with the cap adjusted to 80% of the Virginia state average weekly wage in subsequent years. We support this key piece of the proposal, which strikes a reasonable balance between meeting the needs of low-wage workers and offering a reasonable maximum benefit to help protect the solvency of the fund.

The wage replacement rate (the percentage of their own income workers receive while on leave) is an extremely important element of a paid family and medical leave law: if the rate is too low, workers will not be able to afford to take the leave they need. This problem can be especially acute for low-income workers living paycheck to paycheck, who need every dollar of their income to pay their bills. Moreover, because the proposed program would be partially worker-funded, it is particularly essential to ensure that workers will not be required to pay for a program they cannot afford to use.

Though low-income workers are the most vulnerable, workers of any income level can find themselves unable to afford to take leave if the wage replacement rate is too low. In a major California study, workers across income levels reported that the 55% wage replacement level made it difficult to afford to use the program, potentially contributing to low rates of use.⁶⁸ For this reason, California amended their statute to raise the wage replacement rate, especially for low-wage workers. By adopting the current proposal, Virginia would learn from the experience of existing programs and create a benefit level that works for workers.

For purposes of family care, all close family members should be covered.

We are happy to see the inclusion of the close family members for whom many workers will feel responsible and will therefore need leave to provide care should there be a serious illness. This thoughtful definition will help reflect and protect the diversity of Virginia's families. In today's families, many grandparents are raising grandchildren and both grandparents responsible for their grandchildren and grandchildren who owe their

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grandparents the care given them should be covered. Adult children with a serious illness are no less in need of care from their parents than any other adult to whom the worker is related. And many siblings look to their sisters or brothers as the first person to whom they would turn for care in the event of a serious illness.

Self-employed workers deserve the opportunity to get coverage if they choose.

We are glad to see that the proposed bills would allow self-employed workers, including independent contractors and freelancers, to opt in to coverage. By even conservative measures, more than one in ten American workers are self-employed (as of 2015),⁶⁹ though some counts place the number even higher.⁷⁰ A disproportionately high number of caregivers—in one study, as many as one in six—are self-employed.⁷¹ Self-employment can be a double-edged sword for the ability to take leave, trading off (at least theoretically) greater control of one’s work schedule with less reliable income and fears of losing clients or work due to absence.

Recently, the rise of the so-called “gig economy” has placed increasing importance on ensuring basic protections for independent contractors and other self-employed workers, even as it raises significant questions regarding whether these workers are in fact employees who have been misclassified as contractors.⁷² Despite their claims to provide flexibility, in practice platform companies like Uber often punish workers for not being available during profitable time slots, making it risky to take needed leave.⁷³ Moreover, as with other low-income workers, taking unpaid time away from work may be economically unfeasible for many gig economy workers who struggle to find enough hours of work.⁷⁴ New laws like Virginia’s must, therefore, account for the needs of these workers and ensure that they can access the tools they need to take real leave regardless of whether they are considered traditional “employees,” as this thoughtful proposal would do.

Portable benefits meet the needs of a changing workforce.

We are pleased to see that the bills provide portable benefits—benefits that workers can take with them as they move from job to job or combine multiple sources of income. As workers increasingly find themselves in nonstandard, precarious, and insecure jobs, portable benefits are increasingly essential. Low-income workers in particular may be more likely to change jobs than other workers more generally, even with employment that is not formally set up as temporary. Without needed protections, like eligibility standards that promote portability, a worker who happens to change jobs shortly before a life event requiring leave could be excluded, even if that worker had a long tenure and qualified in their prior position.

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We also strongly support the current bills' provision of benefits to previously covered workers during unemployment. Many nonstandard employees may go through periods of unemployment between periods of employment. For example, temporary workers may have gaps between engagements or seasonal workers may struggle to find sufficient work in the off-season. For these workers, it is important that they can still access benefits they previously qualified for if the need arises during a period of unemployment.

Notice, outreach, and education are important.

Especially in a program in which employees are paying for the benefit, it is very important that workers know about the benefit if there is a covered event in their lives. The provision requiring employers to provide their employees with notice of their rights will help to ensure that these workers receive the information they need. In addition, we strongly support the inclusion of provisions committing the state to providing outreach and education on the new program.

Virginia has taken an important step forward in considering these bills. We thank you for the opportunity to submit this testimony and for all your efforts to enact the crucial protections working families need.

Please note that we have attached a copy of our detailed chart comparing state paid family and medical leave programs.

¹ Hawaii's law continues to provide for TDI benefits, but has not been expanded to provide paid family leave benefits. Under the law, workers can receive TDI benefits for up to twenty-six weeks. Workers receive 58% of their own income through TDI, up to a cap.

² Some state paid family and medical leave laws also cover state or local government employees, while others generally allow public sector employer to opt in to coverage or allow unionized public sector workers to negotiate for coverage through the bargaining process.

³ Massachusetts will provide up to twenty-six weeks of family leave benefits for military caregivers.

⁴ For exact details by state, please see the attached chart.

⁵ INTERNATIONAL LABOUR ORGANIZATION, MATERNITY AND PATERNITY AT WORK: LAW AND PRACTICE ACROSS THE WORLD 16 (2014), available at http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf.

⁶ *National Compensation Survey: Employee Benefits in the United States, Mar. 2018*, U.S. Bureau of Labor Statistics, Table 32 (2018), <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/private/table32a.htm>.

⁷ Sara Cohen, *Have Your Cake and Eat It Too: How Paid Maternity Leave in the United States Could End the Choice Between Career & Motherhood*, 36 WOMEN'S RTS. L. REP. 1, 9 (2014).

⁸ Linda Houser & Thomas Vartanian, *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public*, CENTER FOR WOMEN AND WORK (2012), p. 6-7, available at <http://www.nationalpartnership.org/research-library/work-family/other/pay-matters.pdf>.

⁹ Linda Haas & C. Phillip Hwang, *The Impact of Taking Parental Leave on Fathers' Participation in Childcare and Relationships with Children: Lessons from Sweden*, COMMUNITY, WORK & FAMILY 11:1, 85-104 (2008).

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¹⁰ Maria del Carmen Huerta *et al.*, *Fathers' Leave, Fathers' Involvement and Child Development: Are They Related? Evidence from Four OECD Countries* (2013).

¹¹ Lawrence M. Berger, Jennifer Lynn Hill, and Jane Waldfogel, *Maternity Leave, Early Maternal Employment and Child Health and Development in the US*, 115 THE ECON. J.L. no. 501, F29, F45 (2005).

¹² Annette Semanchin Jones and Susan J. Wells, *PATH/Wisconsin-Bremer Project: Preventing Disruptions in Foster Care* (2008).

¹³ See S. J. Heymann, A. Earle & B. Egleston, *Parental Availability for the Care of Sick Children*, Pediatrics, Vol. 98 No. 2 (Aug. 1996), p. 226-30; S.J. Heymann, *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It* (2000), p. 57

¹⁴ Catherine Albiston & Lindsey Trimble O'Connor, *Just Leave*, 39 HARV. J. L. & GENDER 1, 16 (2016).

¹⁵ See, e.g., A. Houser & M.J. Gibson, *Valuing the Invaluable: The Economic Value of Family Caregiving, 2008 Update*, AARP Public Policy Institute (Nov. 2008), pp. 1-2, 6; *Valuing the Invaluable: A New Look at the Economic Value of Family Caregiving*, AARP (June 2007), p. 6

¹⁶ Houser and Gibson, *Valuing the Invaluable*, p. 6.

¹⁷ *Caregiving in the U.S.*, AARP & National Alliance for Caregiving (June 2015), p. 56, available at <http://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>.

¹⁸ U.S. Bureau of Labor Statistics, *Employee Benefits Survey: Mar. 2018*, Table 16 (2018), <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/private/table16a.pdf>.

¹⁹ *Id.*

²⁰ See Abt Associates Inc., *Family and Medical Leave in 2012: Technical Report* 131 (Sep. 2012), <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

²¹ See David U. Himmelstein, Deborah Thorne, Elizabeth Warren, Steffie Woolhandler, *Medical Bankruptcy in the United States, 2007: Results of a National Study*, 122 AM. J. OF MED. 742 (2009).

²² Christopher Tarver Robertson, Michael Hoke, & Richard Egelhof, *Get Sick, Get Out: The Medical Causes of Home Mortgage Foreclosures*, 18 HEALTH MATRIX 65, 68 (2008).

²³ See Anne L. Alstott, *Why the EITC Doesn't Make Work Pay*, LAW & CONTEMP. PROBS. 285, 311-12 (Winter 2010).

²⁴ The Commonwealth Fund, The New York Times, & Harvard T.H. Chan School of Public Health, *Being Seriously Ill in America Today* 8 (Aug. 2018), <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/94/2018/10/CMWF-NYT-HSPH-Seriously-Ill-Poll-Report.pdf>.

²⁵ *Military Family Lifestyle Survey: Comprehensive Report*, BLUE STAR FAMILIES, p. 20 (2018), available at <https://bluestarfam.org/wp-content/uploads/2019/02/2018MFLS-ComprehensiveReport-DIGITAL-FINAL.pdf>.

²⁶ *Id.* at 10.

²⁷ *Id.*

²⁸ Paid family and medical leave benefits will begin in Washington State and Washington, D.C. in 2020, in Massachusetts in 2021, in Connecticut in 2022, and in Oregon in 2023.

²⁹ Eileen Appelbaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experience with Paid Family Leave in California* (2011), CENTER FOR ECONOMIC AND POLICY RESEARCH, p. 8, available at <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

³⁰ Replacing an employee costs 50-75% of an hourly employee's annual pay and up to 150% of a salaried employee's annual pay. Jodie Levin-Epstein, *Getting Punched: The Job and Family Clock* (2006), CENTER FOR LAW AND SOCIAL POLICY, p. 9, available at <http://www.clasp.org/resources-and-publications/files/0303.pdf>.

³¹ Appelbaum and Milkman, *Leaves That Pay*, p. 8.

³² Eileen Appelbaum and Ruth Milkman, *Achieving a Workable Balance*, CENTER FOR WOMEN AND WORK (2006), p. 23, available at

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<http://cww.rutgers.edu/sites/cww.rutgers.edu/files/images/workingfamilies/achieving%20a%20workable%20balance%202006%20Appelbaum.pdf>.

³³ 56% of employers with 10-19 employees and 59% of employers with 20-49 employees were in favor of the program. Ann Bartel, Maya Rossin-Slate, Christopher Ruhm, and Jane Waldfogel, *Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers* (2016), p. 7, available at https://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

³⁴ Zoe Aitken et al., *The Maternal Health Outcomes of Paid Maternity Leave: A Systematic Review*, SOCIAL SCIENCE & MEDICINE 130 (2015) 32-41; Belinda Hewitt et al., *The Benefits of Paid Maternity Leave for Mothers' Post-Partum Health and Wellbeing: Evidence from an Australian Evaluation*, SOCIAL SCIENCE & MEDICINE 182 (2017) 97-105; Pinka Chatterji and Sara Markowitz, *Family Leave After Childbirth and the Mental Health of New Mothers*, THE JOURNAL OF MENTAL HEALTH POLICY AND ECONOMICS 15 (2012).

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³⁷ Jody Heymann, Amy Raub, and Alison Earle, *Creating and Using New Data Sources to Analyze the Relationship Between Social Policy and Global Health: The Case of Maternal Leave*, PUBLIC HEALTH REP. 126 (Suppl 3): 127-134 (2011) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3150137/>.

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³⁹ National Partnership for Women & Families, *Black Women's Maternal Health: A Multifaceted Approach to Addressing Persistent and Dire Health Disparities*, <http://www.nationalpartnership.org/research-library/maternal-health/black-womens-maternal-health-issue-brief.pdf> (April 2018).

⁴⁰ See S. J. Heymann, A. Earle & B. Egleston, *Parental Availability for the Care of Sick Children*, Pediatrics, Vol. 98 No. 2, 226-30 (Aug. 1996); S.J. Heymann, *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It* (2000) 57

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⁴⁴ Elizabeth Harrington & Bill McInturff, *Key Findings -- National Surveys of Cancer Patients, Survivors, and Caregivers*, American Cancer Society Cancer Action Network (2017), <https://www.acscan.org/sites/default/files/ACS%20CAN%20Paid%20Leave%20Surveys%20Key%20Findings%20Press%20Memo%20FINAL.pdf>. The results of this survey strongly suggests that other workers with chronic or serious illnesses will have better access to treatment and care when they are able to take paid time off from work.

⁴⁵ Abay Asfaw et al., *Paid Sick Leave and Nonfatal Occupational Injuries*, 102.9 AMERICAN JOURNAL OF PUBLIC HEALTH e59-e64 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3482022/>.

⁴⁶ Daniel Kim, *Paid Sick Leave and Risks of All-Cause and Cause-Specific Mortality Among Adult Workers in the USA*. 14.10 INT. J. OF ENV. RESEARCH AND PUB. HEALTH 1247 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5664748/pdf/ijerph-14-01247.pdf>.

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⁵³ *Id.*

⁵⁴ See Maria del Carmen Huerta *et al.*, *Fathers' Leave, Fathers' Involvement and Child Development: Are They Related? Evidence from Four OECD Countries* (2013).

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⁵⁹ Haas & Hwang, p. 85-104.

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Overview of Paid Family & Medical Leave Laws in the United States

Eight U.S. states and the District of Columbia have paid family and medical leave laws on the books.* This document provides an overview of these laws.

| | RI ¹ | CA ² | NJ ³ | NY ⁴ | D.C. ⁵ | WA ⁶ | MA ⁷ | CT ⁸ | OR ⁹ |
|---|--|--|--|---|---|---|--|--|--|
| What purposes can leave be used for? | Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. Temporary caregiver insurance (TCI) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition. | Disability insurance (DI) can be used for a worker's own serious off-the-job illness or injury. Paid family leave (PFL) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition. <i>Beginning on January 1, 2021, PFL can also be used to address certain military family needs.</i> | Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. Family leave insurance (FLI) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address non-medical needs arising from domestic or sexual violence, also known as "safe time." | Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. Paid family leave (PFL) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain military family needs. | Universal paid leave (UPL) can be used (1) for a worker's own serious health condition; (2) to bond with a child within one year of the child's birth or placement for foster care or adoption; or (3) to care for a family member with a serious health condition. <i>Benefits begin on</i> | Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement; (2) care for a family member with a serious health condition; or (3) address certain military family needs. <i>Benefits begin on January 1, 2020.</i> | Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain military family needs. <i>Benefits begin on January 1, 2021, except for benefits for family caregiving, which will begin on July 1, 2021.</i> | Medical leave can be used for a worker's own serious health condition or to serve as an organ or bone marrow donor. Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain military family needs. <i>Benefits begin between January 1 and February 1, 2022.</i> | Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition. Safe leave can be taken to address certain medical and nonmedical needs when a worker or a worker's minor child or dependent has experienced domestic violence, harassment, sexual assault or stalking. |

*Hawaii has a temporary disability insurance law which provides benefits to covered workers to address their own serious off-the-job illnesses or injuries. For more information, see page 10.



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| | | | | | July 1, 2020. | | | | Benefits begin January 1, 2023. |
| Who is covered? ¹⁰ | Employees covered by the state unemployment insurance law, except for public employees, are covered. | Employees covered by the state unemployment insurance law, except for most public employees, are covered. | Employees covered by the state unemployment insurance law are covered, with some exceptions for public sector employees. | Most private sector employees are covered. ¹¹ | Most private sector employees are covered. | All employees are covered. | Employees covered by the state unemployment insurance law, except for some public employees, are covered. | All private sector and many public sector employees are covered. | Almost all workers are covered. |
| Are public sector workers automatically covered? ¹² | No. Public employers can opt in to coverage, as can some unions covering public workers through the collective bargaining process. | No, with a few exceptions. Many public employers can opt in to coverage, but may need to do so through a negotiated agreement with an authorized bargaining unit. | Own health: No, with a few exceptions. Public employers can opt in to coverage. Paid family leave: Yes. | No. Public employers can opt in to coverage and unions covering public sector workers can opt in to paid family leave through the collective bargaining process. | No. | Yes. | State employees are automatically covered. Local government employees are not automatically covered. Public sector employers not covered by the law can opt in to coverage. | State employees are covered if their collective bargaining unit has negotiated coverage or if they are not in a collective bargaining unit. Municipal employees and employees of a local or regional board of education are covered if their collective bargaining unit has negotiated coverage or if they are not in a collective bargaining unit and their employer has negotiated coverage for members of any collective bargaining unit. | Yes, except employees of federal and tribal governments. Tribal governments may elect coverage for their employees. |



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| | RI ¹ | CA ² | NJ ³ | NY ⁴ | D.C. ⁵ | WA ⁶ | MA ⁷ | CT ⁸ | OR ⁹ |
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| Are domestic workers covered? | Yes, subject to a low minimum payment requirement. | Yes, subject to a low minimum payment requirement. | Yes, subject to a low minimum payment requirement. | Full-time domestic workers (those who work at least 40 hours per week for a single employer) are covered. | Yes, subject to a low minimum payment requirement. | Yes. | Yes. | Yes | Yes, including “home care” workers as defined under state law. ¹³ |
| Can self-employed workers opt in to coverage? | No | Yes. | No. | Yes. | Yes. | Yes. | Yes. <i>Certain self-employed workers may be covered automatically.</i> | Yes. | Yes. |
| What are the requirements to qualify for benefits? | Workers must have earned wages in one quarter of the “base period” of at least 200 times the minimum wage (currently, \$2,100), must have earned income across the base period of at least 1.5 times the worker’s highest earning quarter, and must have earned at least 400 times the minimum wage (currently, \$4,200) over the entire base period. This can combine | Workers must have earned at least \$300 during the “base period.” This can combine income from more than one employer. The “base period” is the 12-month period ranging from the 5 to 18 months prior to the start of leave. | Workers must have either earned at least 20 times the minimum wage (currently, \$172) in at least 20 weeks during the year prior to the start leave <i>or</i> earned at least 1,000 times the minimum wage (currently, \$8,600) during the year prior to taking leave. This can combine income from more than one employer. | Own health: Workers generally must have been employed for at least four consecutive weeks by a single employer; ¹⁴ previously qualified workers qualify immediately upon the start of employment with a new covered employer. Paid family leave: Workers generally must have been employed by their current employer for at least 26 consecutive weeks; | While there are no formal eligibility requirements specified in the statute, workers who have worked for a covered D.C. employer for less than one year may receive a prorated benefit amount. <i>Regulations</i> | Workers must have worked 820 hours in a 52-week “qualifying period.” This is equivalent to an average of just under 16 hours per week over the course of the qualifying period. The “qualifying period” means the first 4 of the 5 most recently completed quarters or the 4 most recent quarters. | Workers must have earned a minimum amount (currently, \$4,700) during the “base period” and must meet an earnings requirement tied to the worker’s average earnings that, in effect, means the worker must have worked at least 15 weeks. The “base period” is generally the last 4 completed calendar quarters immediately preceding the first day of benefits. | Workers must have earned at least \$2,325 during the highest earning quarter within the “base period” and must be currently employed or employed within the past 12 weeks. The “base period” means the first 4 of the 5 most recently completed quarters. | Workers must have earned at least \$1,000 during either the first four of the last five completed calendar quarters or the last four completed calendar quarters. |



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| | income from more than one employer. The “base period” means the first 4 of the 5 most recently completed quarters <i>or</i> the 4 most recent quarters. | | | those who work less than 20 hours per week must have worked at least 175 days for their current employer. | <i>will provide additional guidance on specific eligibility requirements</i> . | | | | |
| What family members are covered? | A family member includes a worker’s child, parent, parent-in-law, grandparent, spouse, or registered domestic partner. | A family member includes a worker’s child, parent, grandparent, grandchild, sibling, spouse, registered domestic partner, or the parent of a worker’s spouse or registered domestic partner. ¹⁵ | A family member includes a worker’s child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, registered domestic partner, civil union partner, any other person related to the worker by blood, and any other person that the worker shows to have a close association with the worker which is the equivalent of a family relationship. | A family member includes a worker’s child, parent, parent-in-law, spouse, grandchild, grandparent, or domestic partner. ¹⁶ The law’s definition of domestic partner is flexible and does not require registration. ¹⁷ | A family member includes a worker’s child, parent, parent-in-law, spouse, grandparent, sibling, or registered domestic partner. | A family member includes a worker’s child, grandchild, grandparent, parent, parent-in-law, sibling, spouse, or registered domestic partner. | A family member includes a worker’s spouse, domestic partner, child, parent, parent of a spouse or domestic partner, grandchild, grandparent, or sibling. The law’s definition of domestic partner is flexible and does not require registration. ¹⁸ | A family member includes a worker’s spouse, sibling, son or daughter, grandparent, grandchild parent, parent-in-law, or an individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships. | A family member includes a worker’s spouse or domestic partner, sibling, child, child in-law, grandparent, grandchild, parent, parent-in-law, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship. |

| | RI ¹ | CA ² | NJ ³ | NY ⁴ | D.C. ⁵ | WA ⁶ | MA ⁷ | CT ⁸ | OR ⁹ |
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| How is the program funded? | Workers cover the full cost of both TDI and TCI. Both programs are funded by a single payroll deduction, currently set at 1.1% of wages. This deduction does not apply to wages above \$71,000/year. | Workers cover the full cost of both DI and PFL. Both programs are funded by a single payroll deduction, currently set at 1.0% of wages. This deduction does not apply to wages above \$118,371/year. | Workers and employers share the cost of TDI. Workers contribute 0.17% of their wages. Employers contribute a percentage of workers' wages ranging from 0.10% to 0.75%. These percentage contributions, for both employees and employers, do not apply to a worker's wages above \$34,400/year. Workers cover the full cost of FLI. The program is funded by a payroll deduction, currently set at 0.08% of wages. This deduction does not apply to wages above \$34,400/year. ¹⁹ | Workers and employers share the cost of TDI. Employers can withhold 0.5% of workers' wages to pay for coverage, up to \$0.60/week; employers cover the remaining cost. Workers cover the full cost of PFL. The program is funded by a payroll deduction, currently set at 0.153% of wages. This deduction does not apply to wages above an average of \$1,357.11/ week. | Employers cover the full cost of UPL. Employers contribute 0.62% of the wages of covered employees. | Workers and employers share the cost of medical leave. Employers can withhold up to 45% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 50 employees in Washington State are not required to pay the employer portion. Initially, the <i>total</i> premium for medical leave will be about 0.27% of wages, up to a cap. Workers cover the full cost of family leave. Initially, the premium will be about 0.13% of wages, up to a cap. ²⁰ Employers with 50-150 employees who must pay all of the premiums or employers with fewer than 50 employees who choose to cover the employee portion of the premium may apply to receive certain grants from the state. | Workers and employers share the cost of medical leave. Employers can withhold up to 40% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 25 employees in Massachusetts are not required to pay the employer portion. ²¹ Workers cover the full cost of family leave. Initially, the <i>total</i> premium for family and medical leave will be 0.75% of wages, up to a cap. | Workers cover the full cost of medical and family leave. Employers can withhold the cost of providing coverage from workers' wages to pay for coverage, at a rate to be determined by the state (not to exceed 0.5% of the U.S. Social Security contribution and benefit base). <i>Contributions begin between January 1 and February 1, 2021.</i> | Workers and employers share the costs of both family and medical leave. Employers contribute 40% of the premiums, and all employers can withhold 60% of the premium from workers' wages. Employers with fewer than 25 employees are not required to pay the employer contribution, but these employers may apply to receive certain grants if they elect to pay the employer contribution. The total premium for family and medical leave will be no more than 1% of employee wages, up to a maximum of \$132,900 in wages. <i>Contributions begin January 1, 2022</i> |



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| What percentage of wages do workers receive? | About 60% of a worker's average weekly wage (formally, 4.62% of a worker's wages in the highest earning quarter of the base year) ²² | Between 60% and 70% of a worker's average weekly wage, depending on their income ²³ | 2/3 of a worker's average weekly wage <i>Starting July 1, 2020, workers will receive 85% of their average weekly wage.</i> | Own health: 50% of a worker's average weekly wage Family leave: 55% of a worker's average weekly wage <i>When the program is fully phased in in 2021, workers will receive 67% of their average weekly wage for family leave.</i> | 90% of a worker's average weekly wage up to an amount equal to 40 times 150% of the D.C. minimum wage and 50% of a worker's average weekly wage above an amount equal to 40 times 150% of the D.C. minimum wage ²⁴ | 90% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage | 80% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage | 95% of a worker's "base earnings" up to an amount equal to 40 times the state minimum wage, and 60% of that worker's base weekly earnings above the amount equal to 40 times the state minimum wage | Workers earning an amount equal to or less than 65% of the state average weekly wage ("SAWW") will receive 100% of the worker's average weekly wage. Workers earning more than 65% of the SAWW will receive 65% of the SAWW, plus 50% of the worker's average weekly wage that is greater than 65% of the SAWW. |



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| What is the maximum weekly benefit? | 85% of the statewide average weekly wage <i>Current: \$852/week</i> | About 100% of the statewide average weekly wage <i>Current: \$1,252/week</i> | 53% of the statewide average weekly wage <i>Current: \$650/week</i> <i>Starting July 1, 2020, the cap will be 70% of the statewide average weekly wage.</i> | Own health: \$170/week Family leave: 55% of the statewide average weekly wage <i>Current: \$746.41/week</i> <i>When the program is fully phased in in 2021, the cap for family leave will be 67% of the statewide average weekly wage.</i> | \$1,000 per week, adjusted annually based on inflation | \$1,000 per week initially, adjusted annually after the first year to 90% of the statewide average weekly wage | \$850 per week initially, adjusted annually after the first year to 64% of the statewide average weekly wage | Sixty times the state minimum wage <i>Initially \$780 when benefits begin in 2022.</i> | 120% of the SAWW. There is also a minimum benefit of 5% of the SAWW. |



the work and family legal center

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| For how long can a worker receive benefits? | <p>Own health: Up to 30 weeks in a 52-week period.²⁵</p> <p>Family leave: Up to 4 weeks in a 52-week period.²⁶</p> | <p>Own health: Up to 52 weeks for any period of disability.²⁷</p> <p>Family leave: Up to 6 weeks in a 12-month period.</p> <p><i>Starting July 1, 2020, workers will be able to take up to 8 weeks of family leave.</i></p> | <p>Own health: Up to 26 weeks for any period of disability.²⁸</p> <p>Family leave: Up to 6 weeks in a 12-month period.</p> <p><i>Starting July 1, 2020, workers will be able to take up to 12 weeks of family leave.</i></p> | <p>Own health: Up to 26 weeks for any period of disability or in any 52-week period.</p> <p>Family leave: Up to 10 weeks in a 52-week period.</p> <p><i>When the program is fully phased in in 2021, workers will be able to take up to 12 weeks of family leave.²⁹</i></p> | <p>Own health: Up to 2 weeks in a 52-week period.</p> <p>Caring for a seriously ill relative: Up to 6 weeks in a 52-week period.</p> <p>Bonding with a new child: Up to 8 weeks in a 52-week period.³⁰</p> | <p>Own health: Up to 12 weeks in a 52-week period.³¹</p> <p>Family leave: Up to 12 weeks in a 52-week period.³²</p> | <p>Own health: Up to 20 weeks in any benefit year.</p> <p>Family leave: Up to 12 weeks in any benefit year.³³</p> <p><i>Military caregivers can receive up to 26 weeks of family leave in any benefit year.</i></p> | <p>Own health: 12 weeks within a 12-month period, as well as 2 additional weeks for a worker's own serious health condition resulting in incapacitation that occurs during a pregnancy.</p> <p>Family leave: 12 weeks within a 12-month period.</p> | <p>In a 12-month period, workers can take up to 12 weeks, plus an additional 2 weeks related to pregnancy, childbirth, or a related medical condition including but not limited to lactation. Workers can also take up to an additional four weeks of <i>unpaid</i> leave under the separate Oregon Family Leave Act (OFLA)³⁴, for a total of up to 16 weeks of paid and unpaid leave (or up to 18 weeks if two of the weeks are related to pregnancy, childbirth, and related medical conditions).</p> |



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| Is there an unpaid waiting period? | No. | Own health: Yes—there is a 7 day unpaid waiting period. Family leave: No. | Own health: Yes—there is a 7 day unpaid waiting period. However, if a worker is eligible for benefits during each of three consecutive weeks after the waiting period, that worker can also be paid benefits for the waiting period. Family leave: No. | Own health: Yes—there is a 7 day unpaid waiting period. Family leave: No. | Yes—there is a one week unpaid waiting period. | Own health and family leave other than bonding leave: Yes—there is a 7 day unpaid waiting period. Bonding leave: No. | Yes—there is a 7 day unpaid waiting period. | No. | No. |
| Are workers entitled to have their jobs back when they return? | Own health: No. Family leave: Yes. ³⁵ <i>Workers may have protections under other laws, such as the FMLA or the Rhode Island Parental and Family Medical Leave Act.</i> | No. <i>Workers may have protections under other laws, such as the FMLA or the California Family Rights Act.</i> | <i>The law was recently amended to add additional anti-retaliation provisions, which may be clarified by regulation.</i> <i>Workers may have protections under other laws, such as the FMLA or the New Jersey Family Leave Act.</i> | Own health: No. Family leave: Yes. ³⁶ <i>Workers may have protections under other laws, such as the FMLA.</i> | No. <i>Workers may have protections under other laws, such as the FMLA or the D.C. Family & Medical Leave Act.</i> | Yes, but only for workers who meet specific eligibility criteria similar to those for the FMLA. ³⁷ <i>Workers may have protections under other laws, such as the FMLA.</i> | Yes. ³⁸ <i>Workers may have protections under other laws, such as the FMLA or the Massachusetts Parental Leave Act.</i> | Yes, if they have been employed for three months or longer before taking leave. <i>Workers may also have protections under other laws, such as the FMLA.</i> | Yes, if they have been employed with the employer for at least 90 days before taking leave. Workers may also have protections under other laws, such as OFLA or the FMLA. |

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| How is the insurance provided? | All covered workers are covered through the state fund. | By default, workers are covered through the state fund. Employers can apply for approval of a voluntary plan, which must provide benefits greater than those available through the state. | By default, workers are covered through the state fund. Employers can apply for approval of a private plan, which must provide at least as much coverage as the state plan. | Employers can provide coverage by purchasing insurance (either from the state fund or a private insurer) or by becoming an approved self-insurer. | All covered workers are covered through the district fund. | By default, workers are covered by the state fund. Employers can apply for approval of a voluntary plan, which must provide benefits at least equivalent to those available through the state. | By default, workers are covered by the state fund. Employers can apply for approval of a private plan, which must provide benefits at least equivalent to those available through the state. | By default, workers are covered by the state fund. Employers can apply for approval of a private plan, which must provide benefits at least equivalent to those available through the state. | By default, workers are covered by the state fund. Employers may apply to Director of the Employment Department for approval of a private plan, which among other requirements must provide weekly benefits and an amount of leave equal to or greater than those available under the state fund. |

Hawaii also has a temporary disability insurance (TDI) program, which provides benefits to most workers for up to 26 weeks for any period of serious off-the-job illness or injury (although an employer's insurance policy may require an unpaid waiting period of up to 7 days). Employers can provide coverage by purchasing insurance, becoming an approved self-insurer, or through a collective bargaining agreement that provides benefits at least as favorable as those required by law. To be eligible for benefits, workers must have been employed for at least 14 weeks, during each of which the worker worked at least 20 hours and earned at least \$400 in wages, during the 52 weeks immediately prior to the start of disability. This can combine income from more than one employer. Workers and employers share the cost of TDI. Under the program, a worker receives 58% of a worker's average weekly wage up to a cap of about 70% of the statewide average weekly wage. Hawaii does not provide paid family leave.³⁹ Although the law does not entitle workers to have their jobs back when they return, workers may have protections under other laws, such as the Family and Medical Leave Act (FMLA).

¹ R.I. Gen. Laws § 28-39-1 *et seq.*

² Cal. Unemp. Ins. Code § 2601 *et seq.* San Francisco has enacted a municipal law that grants additional benefits for parental leave for many workers.

³ N.J. Stat. Ann. § 43:21-25 *et seq.*

⁴ N.Y. Workers' Comp. Law § 200 *et seq.* For more information on New York's paid family leave law, visit FamilyLeaveWorks.org.

⁵ D.C. Code Ann. § 32-541.01 *et seq.*

⁶ Wash. Rev. Code *et seq.* 50A.04.005.

⁷ The law is only partially codified. For the full text of the law, see <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter121>.

⁸ Conn. Legis. Serv. P.A. 19-25 (S.B. 1). The law is only partially codified. For the full text of the law, see <https://www.cga.ct.gov/2019/lcoamd/pdf/2019LCO09302-R00-AMD.pdf>.

⁹ See Or. Enrolled House Bill 2005 (HB 2005-B). The law is only partially codified. For the full text of the law, see <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2005/Enrolled>.

¹⁰ California, New Jersey, and Rhode Island also provide some coverage for previously covered workers who have a qualifying need for family or medical leave while they are unemployed, while New York and Hawaii also provide some coverage for previously covered workers who have a qualifying need related to the worker's own health. Details vary by state. Massachusetts, Washington State, and Washington, D.C. will also likely provide some coverage for previously covered workers during unemployment, though final regulations will be needed to specify details.

¹¹ For a list of exceptions, visit http://www.wcb.ny.gov/content/main/offthejob/WhoCovered_DB.jsp.

¹² Note that no state law covers federal employees.

¹³ See Or. Rev. Stat. § 410.600.

¹⁴ Employees who are regularly in the employment of a single employer on a work schedule that is less than the employer's normal work week become eligible for disability leave benefits on the 25th day of such employment.

¹⁵ This list covers family members for whom a worker can take leave to care for when they are seriously ill. Starting January 1, 2021, paid family leave can also be used to address certain needs arising from the active duty military service of a worker's spouse, domestic partner, child, or parent.

¹⁶ This list covers family members for whom a worker can take leave to care for when they are seriously ill. Paid family leave can also be used to address certain needs arising from the active duty military service of a worker's spouse, domestic partner, child, or parent.

¹⁷ The definition of domestic partner includes any person who is at least 18 years old and "is dependent upon the employee for support as shown by either unilateral dependence or mutual interdependence, as evidenced by a nexus of factors including, but not limited to, common ownership of real or personal property, common householding, children in common, signs of intent to marry, shared budgeting, and the length of the personal relationship with the employee"

¹⁸ The definition of domestic partner includes any person who is at least 18 years old and "is dependent upon the covered individual for support as shown by either unilateral dependence or mutual interdependence that is evidenced by a nexus of factors including, but not limited to: (A) common ownership of real or personal property; (B) common householding; (C) children in common; (D) signs of intent to marry; (E) shared budgeting; and (F) the length of the personal relationship with the covered individual"

¹⁹ These percentages are based on participation in the state plan. If an employer chooses a private plan, employees can only be required to contribute as much as they would have contributed to the state plan; these employees can only be required to contribute if a majority of employees agree to the private plan before it goes into effect. See http://lwd.dol.state.nj.us/labor/tidi/worker/private/pp_cost.html.

²⁰ The initial total premium for both family and medical leave will be set at 0.4% of employees' wages, one third of which shall be associated with family leave and two thirds of which shall be associated with medical leave. The state will set the premium in subsequent years based on a formula set by statute. In addition, the state will set the maximum wages subject to premium contributions based on the maximum wages subject to social security taxation. Employers may choose to cover all or part of employees' share of the premium for family and/or medical leave.

²¹ For purposes of determining the number of employees, self-employed people who are part of the employer's workforce are considered employees if self-employed people make up more than fifty percent of the employer's workforce.

²² In addition, workers may also be entitled to a dependency allowance for minor children or adult children who are incapacitated due to physical or mental illness.

²³ Very low-wage workers receive a fixed benefit amount set by statute, which may result in higher wage replacement rates.

²⁴ Workers with less than a year of total covered employment will receive a smaller benefit, pro-rated based on the numbers of weeks the worker has worked in covered employment.

²⁵ While technically there is no time limit on receiving benefits, workers cannot receive benefits worth more than 30 times their weekly benefit rate in a year, in effect limiting workers to 30 weeks per year.

²⁶ Workers may take up to a cumulative total of 30 weeks of TDI and TCI in a 52-week period.

²⁷ While technically there is no time limit on receiving benefits, workers cannot receive benefits worth more than 52 times their weekly benefit rate for any continuous period of disability, in effect limiting workers to 52 weeks per continuous period of disability.

²⁸ In addition, no worker can receive benefits worth more than 26 times their weekly benefit amount in a year.

²⁹ Workers may take up to a cumulative total of 26 weeks of TDI and PFL in a 52-week period.

³⁰ Workers may take up to a cumulative total of 8 weeks of UPL in a 52-week period.

³¹ Technically, workers are entitled to medical leave for up to twelve times their typical workweek hours. Medical leave may be extended by an additional two weeks (two times a worker's typical workweek hours) if the worker experiences a serious health condition with a pregnancy that results in incapacity.

³² Technically, workers are entitled to family leave for up to twelve times their typical workweek hours. A worker may take up to a cumulative sixteen weeks (sixteen times the worker’s typical workweek hours) of family and medical leave in a 52-week period or up to a cumulative eighteen weeks (eighteen times the worker’s typical workweek hours) of family and medical leave in a 52-week period if the worker experiences a serious health condition with a pregnancy that results in incapacity.

³³ Workers may take a cumulative total of 26 weeks of family and medical leave in a benefit year.

³⁴ Or. Rev. Stat. § 659A.159.

³⁵ A worker returning from TCI leave must be restored to his or her prior position or “a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment including fringe benefits and service credits that the employee had been entitled to at the commencement of leave.” Workers who receive health insurance through their employers are entitled to continuation of those benefits while on TCI.

³⁶ A worker returning from PFL must be restored to his or her prior position or “a comparable position with comparable employment benefits, pay and other terms and conditions of employment.” Workers who receive health insurance through their employers are entitled to continuation of those benefits while on PFL.

³⁷ Workers are entitled to job protection under the state paid family and medical leave law only if they work for an employer with at least 50 employees, have been employed by that employer for at least twelve months, *and* have worked for that employer for at least 1,250 hours during the twelve month period immediately preceding leave. A worker entitled to job protection under the law must be restored to his or her prior position or “an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.” Some highly paid employees may be subject to a very narrow exception. Workers who receive health insurance through their employers are entitled to continuation of those benefits while on leave *if* their employers would be required to continue benefits under the Family and Medical Leave Act.

³⁸ A worker returning from paid family or medical leave must be restored to his or her prior position or “an equivalent position, with the same status, pay, employment benefits, length of service credit and seniority as of the date of leave.” Workers who receive health insurance through their employers are entitled to continuation of those benefits while on paid family and medical leave.

³⁹ See Haw. Rev. Stat. § 392-1 *et seq.* For more information, visit <https://labor.hawaii.gov/dcd/home/about-tdi/>. For a list of exceptions to covered workers, visit http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0392/HRS_0392-0005.htm.